

## **REMARKS**

Claims 1-3, 5-8, 10, 12-16, and 18-22, all the claims pending in the application, stand rejected on prior art grounds. Applicants respectfully traverse these rejections based on the following discussion.

### **I. The Prior Art Rejections**

Claims 1-3, 5-8, 10, 12-16, and 18-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Marsh, et al. (U.S. Patent No. 6,681,106), hereinafter referred to as Marsh, in view of Dalheimer (“LinuzTag 2001 Proceedings: Virtual Companies”), hereinafter referred to as Dalheimer. Applicants respectfully traverse these rejections based on the following discussion.

The claimed invention provides a method of selecting from a plurality of modes of communication, comprising evaluating a cost effectiveness of a mode of communication of the modes of communication, wherein the modes of communication comprise at least two of telephone, facsimile, hard copy mail, electronic mail, and at least one on-line communication arrangement. In the rejection, the Office Action argues that Marsh discloses many features defined by the claimed invention. However, Marsh does not teach or suggest evaluating and/or selecting from a plurality of *modes* of communication (e.g., telephone, facsimile, e-mail). Instead, Marsh discloses selecting from a plurality of *formats* (e.g., service plans, service plan packages, coverage areas) of ONE mode of communication (wireless telephone). Therefore, as explained in greater detail below, Applicants respectfully submit that the prior art of record does not teach or suggest the claimed invention.

Applicants traverse the rejections because it would not have been obvious to combine Marsh and Dalheimer to arrive at Applicants' invention. The claimed invention defines "evaluating a cost effectiveness of a ... mode of communication of said modes of communication based on said first party's ability to communicate". Such features are defined in independent claims 1, 8, and 14 using similar language.

Dalheimer discloses considering the "cost" when "selecting communication channels" (Dalheimer, p. 2, para. 2). However, Dalheimer does not disclose evaluating the costs *based on the first party's ability to communicate* because Dalheimer does not evaluate the cost in regards to a specific user (e.g., buyer or seller). Dalheimer fails to disclose whether the "cost" is the cost to the buyer, the cost to the seller, or the combined cost between the buyer and the seller.

Accordingly, Applicants submit that Dalheimer does not disclose evaluating costs based on the first party's ability to communicate. The costs considered in Dalheimer are not specific to a particular user. Therefore, it is Applicants' position that Dalheimer fails to teach or suggest the claimed feature of "evaluating a cost effectiveness of a ... mode of communication of said modes of communication based on said first party's ability to communicate" as defined in independent claims 1, 8, and 14.

In addition, Applicants traverse the rejections because Marsh fails to teach or suggest evaluating and selecting a mode of communication from a plurality of modes of communication, wherein the modes of communication comprise at least two of telephone, facsimile, hard copy mail, electronic mail, and at least one on-line communication arrangement.

The Office Action argues that Marsh discloses evaluating different *formats* (i.e., service plans) of communication (Office Action, p. 3, para. 3 – p. 5, para. 1). More specifically, the

abstract of Marsh provides that a system and method for analyzing wireless communication records and for *determining optimal wireless communication service plans* is disclosed. A transceiver is configured to receive billing information associated with a subscriber of a telecommunications service under a current rate plan. A storage unit stores the billing information. A processor processes the subscriber related billing information to produce organized data having a predefined format. The processor then *analyzes the processed data in relation to a plurality of rate plans of a plurality of telecommunications service providers, and determines at least one proposed rate plan that would save the subscriber telecommunication costs relative to the current rate plan*. A report of at least one proposed rate plan is then produced and provided to the subscriber, which enables selection of a best telecommunication service provider.

Additionally, citing column 8, lines 54-62 of Marsh, the Office Action asserts that the MAMBA system provides an analysis of periodically loaded wireless service usage of a given account or subscriber, and/or group of accounts or subscribers, and determines whether or not that subscriber, or group of subscribers, is on the optimal wireless service plan (Office Action, pp. 3-4, item 6(b)). The Office Action references various other portions of Marsh, which discuss calculating and comparing costs associated with different wireless service plans. For example, citing column 18, lines 34-45 of Marsh, the Office Action states that the relative attractiveness of a service plan instance is determined by comparing it to the corresponding actual billed usage of the current service plan; the specific measure, termed “efficiency”, is calculated as current plan costs/service plan instance estimated cost; if the efficiency factor is greater than 1, then the

service plan instance is more cost effective than the other plan (Office Action, pp. 4-5, item 8(b)(iv)).

However, although the Office Action argues that Marsh discloses evaluating different *formats* (i.e., service plans) of communication, Marsh fails to teach or suggest evaluating different *modes* of communication.

To the contrary, the claimed invention provides a method of selecting from a plurality of modes of communication, comprising evaluating a cost effectiveness of a mode of communication of the modes of communication, wherein the modes of communication comprise at least two of telephone, facsimile, hard copy mail, electronic mail, and at least one on-line communication arrangement (independent claims 1, 8, and 14).

For example, as discussed in paragraph 0022 of Applicants' disclosure, question 300 inquiries as to whether a supplier has a world wide web or other similar wide area network connection. If the supplier does not have such a connection, the invention determines whether the supplier at least has e-mail in item 301. If the supplier does not have e-mail, the invention determines whether the supplier at least as the ability to communicate by facsimile in item 302. Finally, if there is no facsimile, the invention determines whether the supplier can communicate with the corporation by telephone in item 303.

Accordingly, Applicants submit that Marsh does not teach or suggest evaluating and/or selecting from a plurality of *modes* of communication (e.g., telephone, facsimile, e-mail). Instead, Marsh discloses selecting from a plurality of *formats* (e.g., service plans, service plan packages, coverage areas) of ONE mode of communication (wireless telephone). Therefore, it is Applicants' position that Marsh fails to teach or suggest the claimed feature of "selecting from a

plurality of modes of communication ... [and] evaluating a cost effectiveness of a mode of communication of said modes of communication ... wherein said modes of communication comprise at least two of telephone, facsimile, hard copy mail, electronic mail, and at least one on-line communication arrangement” as defined by independent claims 1, 8, and 14.

The Office Action argues that Marsh teaches evaluating a cost effectiveness of a standard mode of communication wherein said mode of communication comprises telephone (Office Action, p. 8, para. 2). However, Applicants submit that Marsh only discloses evaluating ONE mode of communication (i.e., wireless telephone). Marsh does not teach or suggest evaluating a mode of communication of a *plurality* of modes of communication (i.e., telephone AND facsimile, hard copy mail, e-mail, on-line communication arrangement).

Because Marsh only discloses evaluating ONE mode of communication (i.e., wireless telephone), Applicants submit that Marsh fails to teach or suggest the claimed feature of “evaluating a cost effectiveness of a mode of communication of said modes of communication ... wherein said modes of communication comprise at least two of telephone, facsimile, hard copy mail, electronic mail, and at least one on-line communication arrangement” as defined by independent claims 1, 8, and 14.

Furthermore, because Marsh only discloses evaluating ONE mode of communication (i.e., wireless telephone), Applicants submit that Marsh fails to teach or suggest the claimed features of “repeating said evaluating for a different mode of communication of said modes of communication” as defined by independent claims 1 and 14, and “repeating said evaluating for a non-standard mode of communication of said modes of communication” as defined by independent claim 8.

Therefore, it is Applicants' position that the prior art of record does not teach or suggest many features defined by independent claims 1, 8, and 14 and that such claims are patentable over the prior art of record. Further, it is Applicants' position that dependent claims 2-3, 5-7, 10, 12-13, 15-16, and 18-22 are similarly patentable, not only because of their dependency from a patentable independent claims, but also because of the additional features of the invention they defined. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections.

## **II. Formal Matters and Conclusion**

In view of the foregoing, Applicants submit that claims 1-3, 5-8, 10, 12-16, and 18-22, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 50-0510.

Respectfully submitted,

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